



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/574,055	04/06/2007	Robert Puskas	31469-708.831	9397
21971 7590 06/25/2010 WILSON, SONSINI, GOODRICH & ROSATI 650 PAGE MILL ROAD PALO ALTO, CA 94304-1050				
EXAMINER				
GEISEL, KARA E				
ART UNIT		PAPER NUMBER		
2877				
MAIL DATE		DELIVERY MODE		
06/25/2010		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.



## UNITED STATES DEPARTMENT OF COMMERCE

## U.S. Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
10574055	4/6/07	PUSKAS, ROBERT	31469-708.831

## EXAMINER

KARA E. GEISEL

## ART UNIT

## PAPER

2877

20100619

DATE MAILED:

**Please find below and/or attached an Office communication concerning this application or proceeding.**

## Commissioner for Patents

The amendment filed on February 23rd, 2010 canceling all claims drawn to the elected invention and presenting only claims drawn to a non-elected invention is non-responsive (MPEP § 821.03). The remaining claims are not readable on the elected invention because:

Newly submitted claim 23 is directed to an invention that is independent or distinct from the invention originally claimed for the following reasons:

Originally elected claim 1 was directed to a method for enhancing particle detection by measuring electromagnetic radiation in a first interrogation volume and a second interrogation volume, comparing detected radiation from each of the volumes, and applying a filter to enhance particle detection, classified in class 356/317. New claim 23 is directed to a method for identifying a single fluorescent molecule in an interrogation space by dividing fluorescent light from the particle into equally spaced apart bins, identifying light above a threshold, and identifying the single molecule by the threshold level, classified in 702/32. The two inventions are related as combination/subcombination. The combination (claim 1) as claimed does not require the particulars of the subcombination as claimed (claim 23) as is evidenced by the two independent claims. The subcombination has separate utility such as a processing method in any fluorescence device, including a fluorescent spectrometer and a fluorescent colorimeter.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claim 23 is withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Since the above-mentioned amendment appears to be a bona fide attempt to reply, applicant is given a TIME PERIOD of ONE (1) MONTH or THIRTY (30) DAYS, whichever is longer, from the mailing date of this notice within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD UNDER 37 CFR 1.136(a) ARE AVAILABLE.

/Kara E Geisel/  
Primary Examiner, Art Unit 2877